

SCOTTSDALE

# CITY COUNCIL MEETING



## \*\*\*AMENDED\*\*\* NOTICE AND AGENDA

(CONSENT AGENDA ITEM 19A ADDED; REGULAR AGENDA ITEM 20 REWORDED)

### COUNCIL

Mary Manross, Mayor

Betty Drake

Wayne Ecton

W.J. "Jim" Lane

Robert W. Littlefield

Ron McCullagh

Kevin J. Osterman

Tuesday, December 13, 2005

**5:00 P.M.**

### **CITY COUNCIL MEETING**

**Call to Order** – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard

**Roll Call**

**Pledge of Allegiance**

**Invocation**

**Presentations/Information Updates**

### **Public Comment**

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. Please check the box that refers to "Public Comment." This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action can be taken on these items.

## CONSENT AGENDA      ITEMS 1 - \*\*\*19A\*\*\*

**How the Consent Agenda Works:** The Council may take one vote to act on all items on the Consent Agenda, or may remove items for further discussion. Every interested citizen will have one opportunity to speak on any or all Consent Agenda items. If you wish to speak on these items, please complete a Comment Card for each topic you wish to address. **You will be given at least three minutes to speak on all the Consent Agenda items you wish to address. Additional time for multiple agenda items will be at the Mayor's discretion.**

After all speakers have finished, the City Council will decide which items to remove for additional discussion and/or presentation from staff. Items not removed from the Consent Agenda will be considered in one motion. Items removed for clarification or discussion by the Council will be acted on as appropriate.

# CONSENT AGENDA

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1. **104th St and Bell Final Plat (Windgate Ranch)**

**Request:** Consider Final Plat approval for Phase I Plat B consisting of 91 lots on approximately 64.21 acres located within a Master Planned Community near Thompson Peak Parkway and Bell Road.

**Location:** E. Bell Road and N. 104th Street

**Reference:** 9-PP-2004#1B

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [frgray@scottsdaleaz.gov](mailto:frgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

2. **Sera Brisa Final Plat (Summers Property)**

**Request:** Consider Final Plat approval for a 51-lot single-family residential subdivision in Environmentally Sensitive Lands (R1-10 ESL) with amended development standards on a 25.7+/- acre parcel.

**Location:** 18001 N. 94th Street

**Reference:** 2-PP-2005

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [frgray@scottsdaleaz.gov](mailto:frgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

3. **Pinnacle Peak Place Abandonment**

**Request:** Consider abandonment of the existing 110-foot-wide right-of-way of Desert Highlands Drive from Pima Road east approximately 800 feet to allow realignment of Desert Highlands Drive.

**Location:** Northeast corner of Desert Highlands Drive and Pima Road

**Reference:** 7-AB-2005

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [frgray@scottsdaleaz.gov](mailto:frgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

4. **Pinnacle Peak Place Final Plat**

**Requests:**

1. Consider Final Plat approval for 80 residential lots on 124+/- acres.
2. Consider approval of an Environmentally Sensitive Lands Ordinance (ESLO) Hardship Exemption from 6.1071 Design Guidelines for subdivision walls and 15-foot setback for side yard walls.

**Location:** East side of Pima Road between Happy Valley and Jomax roads

**Reference:** 21-PP-2004 and 2-HE-2004

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [frgray@scottsdaleaz.gov](mailto:frgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

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### 5. [Scottsdale Healthcare Rezoning and Conditional Use Permit](#)

**Requests:**

1. Rezone a 2.9+/- acre parcel from Planned Community District with Central Business District comparable uses (C-2 PCD) to Planned Community District with Commercial Office comparable uses (C-O PCD) with amended development standards on a 10.5+/- acre parcel located at the northeast corner of 73rd Street and Thompson Peak Parkway.
2. Amend the previously approved Conditional Use Permit on 14.5 +/- acres located at the northeast corner of 73rd Street and Thompson Peak Parkway.
3. Adopt Ordinance No. 3652 affirming the rezoning and amended development standards.
4. Adopt Resolution No. 6794 affirming the amendment to the Conditional Use Permit.

**Location:** 20255 N. Scottsdale Road

**Reference:** 46-ZN-1990#16 and 21-UP-1995#3

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [frgray@scottsdaleaz.gov](mailto:frgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

### 6. [Contract Modification for the Scottsdale Bead Supply Project](#)

**Request:** Adopt Resolution No. 6793 authorizing a modification to Development Agreement No. 2001-138-COS. The modification proposes an extension to the construction completion schedule from April 2006 to October 2006.

**Location:** Northeast corner of Marshall Way and Goldwater Boulevard in Downtown Scottsdale

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [frgray@scottsdaleaz.gov](mailto:frgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

### 7. [Civic Center Mall West Restroom Renovation Architectural Services Design Contract](#)

**Request:** Authorize Architectural Services Contract No. 2005-170-COS with Abell & Associates Architects, Ltd., in the amount of \$122,530 for the design of the Civic Center Mall west restroom renovation.

**Related Policies, References:** The adopted FY 2005/2006 CIP Budget includes \$467,000 for the planning, design and construction of the Civic Center Mall restroom renovations.

**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

### 8. [Construction Bid Award for Thompson Peak Parkway \(Bell Road to Union Hills Drive\)](#)

**Request:**

1. Adopt Resolution No. 6792, approving Cost Participation Agreement No. 2005-146-COS with Toll Brothers Arizona Construction Company for grading and drainage for Thompson Peak Parkway from Bell Road to Union Hills Drive.
2. Confirm award of Phase I construction contract to Achen-Gardner Engineering in the amount of \$7,454,749.

**Related Policies, References:** Toll Brothers Development Agreement, No. 2004-026-COS, and Amendment No. 1 to Development Agreement No. 2004-026-COS

**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

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9. **[Acquisition of land for Construction of Regulatory Compliance Improvements at the Central Arizona Project Water Treatment Plant](#)**

**Request:** Adopt Resolution No. 6800 authorizing the City Manager or designee to submit bids and pay required deposits and other amounts for 6.9 acres of land being sold at public auction by the Arizona State Land Department for the constriction of regulatory compliance improvements at the Central Arizona Project Water Treatment Plant (CAP WTP), and declaring an emergency.

**Related Policies, References:**

- Council approved the Water Resources Master Plan on October 15, 2001.
- Council approved Engineering Services Contract No. 2001-167-COS, for conceptual site plan of CAP WTP expansion on November 26, 2001.
- Council approved Engineering Services Contract No. 2003-110-COS with Malcolm Pirnie, Inc. for the design of regulatory compliance improvements at the CAP WTP on July 1, 2003.
- Council approved Construction Bid Award 04PB052 to Archer Western Contractors for construction of regulatory compliance improvements at the CAP WTP on June 28, 2005.
- Scottsdale City Charter Section 3 (A) describes City rights to acquire property.

**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

10. **[Engineering Services Contract for the ASU Scottsdale Transit Passenger Facility](#)**

**Request:** Authorize Engineering Services Contract No. 2005-184-COS with Parsons, Brinckerhoff, Quade & Douglas, Inc., in the amount of \$152,527 for required federal planning activities associated with the ASU Scottsdale Transit Passenger Facility.

**Related Policies, References:**

- Council approved Lease Agreement No. 2004-119-COS with the ASU Foundation on July 6, 2004. This established a ground lease for development of the ASU-Scottsdale Center for New Technology and Innovation.
- Council approved a request to rezone the property to PC (Planned Community) District on June 21, 2005 (Case # 26-ZN-2004).
- The adopted FY 2006-2010 CIP includes \$3.45 million for the planning, design and construction of the ASU/Scottsdale Transit Passenger Facility. Federal funds have been identified for this project totaling \$2.64 million.

**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)

11. **[Second Amendment to Smitty's/McDowell Village Redevelopment Agreement. First Amendment to CC&Rs and First Amendment to Purchase Option](#)**

Approve Resolution No. 6729 which authorizes the Mayor to sign Second Amendment to Redevelopment Agreement, Contract No. 2003-160-COS-A2, between the City and MVSA Scottsdale, L.L.C. and Granite Reef McDowell N/NWC Dev Investors, LLC (Developers), as well the First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements and First Amendment to Purchase Option.

**Staff Contact(s):** Dave Roderique, Economic Vitality General Manager. 480-312-7601, [droderique@scottsdaleaz.gov](mailto:droderique@scottsdaleaz.gov)

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### 12. [Desert Discovery Center Concept and Feasibility Study Update](#)

**Request:** Consider approval of \$14,500 from bed tax research funds for proposed scope refinements to the current update of the “1999 Desert Discovery Center Feasibility Study” as recommended unanimously by the Tourism Development Commission at their November 15, 2005 meeting.

**Related Policies, References:**

- Ordinance No. 3577 (revised) provides for Tourism Research as one of the uses for bed tax expenditures.
- City Council previously approved \$109,000 from the bed tax for the original Master Plan Concept study, which was completed in 1999.
- July 5, 2005 authorization of \$38,000 from the bed tax for a review and update of the 1999 Desert Discovery Feasibility Study.

**Staff Contact(s):** Dave Roderique, General Manager-Economic Vitality, 480-312-7601, [droderique@scottsdaleaz.gov](mailto:droderique@scottsdaleaz.gov)

### 13. [Amendment to the Scottsdale City Code Relating to Authority of the Scottsdale City Court to Order Abatements](#)

**Request:** Adopt Ordinance No. 3654 Amending Section 18-60 of, and Adding Section 18-61 to, the Scottsdale Revised Code, confirming the authority of the Scottsdale City Court to order abatements.

**Related Policies, References:** Ordinance No. 3448

**Staff Contact(s):** Deborah Robberson, City Attorney 480-312-2405, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov); Raun Keagy, Neighborhood Services Director, 480-312-2373, [rkeagy@scottsdaleaz.gov](mailto:rkeagy@scottsdaleaz.gov)

### 14. [Amended Gila River Indian Community Water Rights Settlement Agreement](#)

**Requests:**

1. Adopt Resolution No. 6789 declaring the Amended and Restated Gila River Indian Community Water Rights Settlement Agreement (“Settlement Agreement”) a public record.
2. Adopt Resolution No. 6778 approving and authorizing the Mayor to execute: (a) the Amended and Restated Gila River Indian Community Water Rights Settlement Agreement (No. 2003-049-COS-A1), an agreement with the Gila River Indian Community and various state and federal parties; (b) Lease Agreement for CAP water with the Gila River Indian Community and the United States, as Trustee for the for the Gila River Indian Community (No. 2003-050-COS-A1); and (3) certain other related documents attached as exhibits to the Settlement Agreement.

The Settlement Agreement settles the water rights claims of the Gila River Indian Community. The Lease Agreement provides to the City a 100-year assured water supply of 12,000 acre feet of the Gila River Indian Community’s CAP Indian Priority Water.

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-2405, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov); David Mansfield, Water Resources General Manager, 480-312-5681, [dmansfield@scottsdaleaz.gov](mailto:dmansfield@scottsdaleaz.gov)

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15. **Agreements For Joint Legal Representation Related to CAWCD v. U.S., et al. and Settlement of the Gila River Indian Community Water Rights Claims**

**Request:** Adopt Resolution No. 6779 authorizing the Mayor to execute (a) Tenth Intergovernmental Agreement No. 2003-108-COS-A2, an agreement among the cities of Scottsdale, Chandler, Glendale, Goodyear, Mesa, and Peoria; and (b) Contract for Legal Services No. 2003-109-COS-A2 among the aforementioned cities and the law firm of Engelman Berger, P.C., both relating to joint legal representation in settlement activities for *CAWCD v. U.S., et al.* litigation and settlement of the Gila River Indian Community water rights claims.

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-2405, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov)

16. **Amendment to the Scottsdale City Code Relating to Secondhand Dealers, Pawnbrokers and Auction Houses**

**Request:** Adopt Ordinance No. 3657 amending Section 16-312 of the Scottsdale Revised Code, to exempt DVDs, CDs, videos, tapes, computer and video games traded in for store credit from the provisions of Article IX, Secondhand Dealers, Pawnbrokers and Auction Houses.

**Related Policies, References:** Ordinance 3549

**Staff Contact(s):** Deborah Robberson, City Attorney 480-312-2405, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov); Alan Rodbell, Chief of Police, 480-312-5310, [arodbell@scottsdaleaz.gov](mailto:arodbell@scottsdaleaz.gov)

17. **Legal Services Contracts for Risk Management Issues**

**Request:** Adopt Resolution No. 6799 authorizing the Mayor to execute legal services contracts with the following firms:

- Copple Boehm & Murphy PC (Contract No. 2005-190-COS)
- Udall Shumway & Lyons PLC (Contract No. 2005-191-COS)
- Schneider & Onofry PC (Contract No. 2005-192-COS)
- Kutak Rock, LLP (Contract No. 2005-193-COS)
- Holloway, Odegard, Sweeny & Evans, P.C. (Contract No. 2005-194-COS)
- Jones, Skelton and Hochuli (Contract No. 2005-195-COS)
- Klein Lundmark Barberich & LaMont PC (Contract No. 2005-196-COS)
- Grasso Law Firm PC (Contract No. 2005-197-COS)

These contracts do not authorize any immediate expenditures, but serve to provide the City with a list of retained law firms the City can use, should the City decide to send any future cases to outside counsel for representation. Having the contracts in place before the determination to send a case to outside counsel is made allows the Risk Management Division, in conjunction with the City Attorney's Office, to promptly assign the defense of selected cases to the outside counsel on the list with the most appropriate level of expertise and experience in the areas needed.

**Related Policies, References:** Section 2-174 of the Scottsdale Revised Code.

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-2405, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov); Craig Clifford, Financial Services General Manager, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov)



**18. Minor City Code Amendment Relating to Scheduling of Regular Council Meetings**

**Request:** Adopt Ordinance No. 3660, amending Section 2-17 of the Scottsdale Revised Code to clarify the City's ability to reschedule meetings to accommodate holidays, the summer schedule, and other needs that arise from time to time.

**Related Policies, References:** Article 2, Section 12, of the Scottsdale City Charter and Section 2-17 of the Scottsdale Revised Code.

**Staff Contact(s):** Carolyn Jagger, City Clerk, 480-312-2411, [cjagger@scottsdaleaz.gov](mailto:cjagger@scottsdaleaz.gov); Deborah Robberson, City Attorney, 480-312-2405, [dobberson@scottsdaleaz.gov](mailto:dobberson@scottsdaleaz.gov)

**19. Water and Sewer Credit Agreement for Whisper Rock**

**Request:** Adopt Resolution No. 6754, authorizing the Mayor to execute Agreement No. 2005-160-COS with Whisper Rock, LLC for reimbursement of costs to install water and sewer system improvements to the Whisper Rock community.

**Related Policies, References:**

Water and Sewer Development Fee Ordinance (City Code Sec. 49-74).

To date, the City Council has approved six agreements with developers installing water and/or sewer system improvements. The following is a list of those agreements and the date Council approved them:

- McDowell Mountain Ranch May 1997
- Grayhawk June 1997
- DC Ranch, Phase 1 (water) June 1999
- DC Ranch, Phase 1 (sewer) January 2000
- Bellasera (water) March 2000
- Cresta Norte (water) January 2001

**Staff Contact(s):** David M. Mansfield, Water Resources General Manager, 480-312-5681, [dmansfield@scottsdaleaz.gov](mailto:dmansfield@scottsdaleaz.gov)

**\*\*\*19A. Settlement of Claims filed by Matthew Lewis, the Family of Cody Morrison, and Nicholas Rosin**

**Request:** Adopt Resolution No. 6809, authorizing the Mayor to execute Settlement Agreements Nos. 2005-200-COS, 2005-201-COS and 2005-202-COS to fully resolve claims filed by Matthew Lewis, the family of Cody Morrison, and Nicholas Rosin, and authorizing a budget transfer from the Risk Management/Lost Trust Fund Reserve Appropriation to the Risk Management Division Liability Cost Center in the total amount of \$1,500,000 for payment of the settlements.

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-2405, [dobberson@scottsdaleaz.gov](mailto:dobberson@scottsdaleaz.gov); Michael Mason, Risk Management Claims Manager, 480-312-7040, [mmason@scottsdaleaz.gov](mailto:mmason@scottsdaleaz.gov)

Regular Agenda begins on the following page

**How the Regular Agenda Works:** The Council takes a separate action on each item on the Regular Agenda. If you wish to address the Council regarding any or all of the items on the Regular Agenda, please complete a Comment Card for each topic you wish to address and submit it to the City Clerk. **You will be given at least three minutes to speak per item. Comment cards must be submitted before public testimony has begun on any regular agenda or public hearing item.**

**\*\*\*20. [ASU Scottsdale Center for New Technology and Innovation](#)**

**Request:** Adopt Resolution No. 6801 affirming the site plan, floor plans, elevations, Skysong architectural element, landscape plan, and lighting plan for phases I and II of the ASU Scottsdale Center for New Technology and Innovation.

The applicant requested approval of:

- The site plan, floor plans, elevations, landscape plan, and lighting plan for Phases I and II of the ASU Scottsdale Center for New Technology and Innovation.
- “Skysong,” an architecturally integral shade structure extending up to 125 feet in height with fabric mesh ranging in heights up to approximately 110 feet and structural support poles up to 125 feet in height.

**Location:** Southeast corner of E. McDowell Road and N. Scottsdale Road

**Reference:** 88-DR-2005

**Staff Contact(s):** Ed Gawf, Assistant City Manager, 480-312-4510, [egawf@scottsdaleaz.gov](mailto:egawf@scottsdaleaz.gov); Kroy S. Ekblaw, Executive Assistant, 480-312-7064, [kekblaw@scottsdaleaz.gov](mailto:kekblaw@scottsdaleaz.gov)

[Click here to view Item 20 Addendum - Additional ASU Scottsdale Center Information \(plans, data, Council](#)

### Public Comment

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening’s meeting. This “Public Comment” time is reserved for citizen comments regarding non-agendized items. No official Council action will be taken on these items.

### City Manager’s Report

### Mayor and Council Items

### Adjournment